UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

ERIC E. HOUSTON,	)	
	)	
Petitioner,	)	
	)	
v.	)	Nos.: 3:99-cr-132
	)	3:12-cv-322
UNITED STATES OF AMERICA,	)	(VARLAN/GUYTON)
	)	
Respondent.	)	

MEMORANDUM

Petitioner has filed a motion to vacate, set aside or correct sentence pursuant to 28

U.S.C. § 2255. Petitioner was convicted of possession with intent to distribute cocaine base

(crack). He previously filed a § 2255 motion attacking the same conviction. The previous

motion was denied on the merits. *Eric Houston v. United States of America*, Civil Action

No. 3:01-cv-519 (E.D. Tenn. January 3, 2006) (Judgment Order).

In accordance with the "Antiterrorism and Effective Death Penalty Act of 1996," the

petitioner cannot file a second or successive § 2255 motion in the district court until he has

moved in the United States Court of Appeals for the Sixth Circuit for an order authorizing

the district court to consider the motion. This Court has not received an order from the Sixth

Circuit authorizing the Court to consider the pending motion.

Under the circumstances, the motion to vacate, set aside or correct sentence will be

DENIED as a second or successive petition and this action will be **DISMISSED WITH**

PREJUDICE. All pending motions will be **DENIED** as **MOOT**. A certificate of appealability **SHALL NOT ISSUE** in this action. 28 U.S.C. § 2253(c).

In addition to the above, this Court has carefully reviewed this case pursuant to 28 U.S.C. § 1915(a) and will **CERTIFY** that any appeal from this action would not be taken in good faith and would be totally frivolous. Therefore, this Court will **DENY** the petitioner leave to proceed *in forma pauperis* on appeal. *See* Rule 24 of the Federal Rules of Appellate Procedure.

AN APPROPRIATE ORDER WILL ENTER.

s/ Thomas A. Varlan
UNITED STATES DISTRICT JUDGE

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